

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 DEAE-00 CIAE-00 INR-07 IO-10 JUSE-00

NSAE-00 SNM-02 SY-05 TRSE-00 USIA-06 NSC-05 OES-03

OMB-01 SS-15 HEW-02 DODE-00 L-02 AID-05 /076 W

----- 119140

R 041620Z APR 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 9166

INFO AMEMBASSY PARIS

CINC USAREUR HEIDELBERG

CINC USAFE RAMSTEIN

C O N F I D E N T I A L SECTION 01 OF 02 BONN 05495

E.O. 11652: GDS

TAGS: SNAR, GW

SUBJECT: US/FRG NARCOTICS CONTROL AGREEMENT

REF: A. STATE 220682 OCT. 8, 1974 B BONN 00488

C. STATE 012352

1. SUMMARY: FRG HAS MADE CLEAR THAT IT "WOULD BE IMPOSSIBLE TO CONCLUDE" US/FRG NARCOTICS CONTROL AGREEMENT BASED ON WASHINGTON DRAFT SET FORTH REFTEL A. MAIN OBJECTIONS, AS ALREADY OUTLINED REFTEL B, ARE THAT FRG DOES NOT WISH TO ENTER INTO TREATY-LIKE NARCOTICS CONTROL AGREEMENT AND THAT POLICE POWERS REFERRED TO IN WASHINGTON DRAFT SIMPLY DO NOT FALL UNDER THE JURISDICTION OF THE FEDERAL GOVERNMENT. EMBASSY RECOMMENDS THAT DEPARTMENT RECONSIDER ORIGINAL DRAFT SUBMITTED BY EMBASSY. US/FRG AGREEMENT BASED ON EMBASSY DRAFT AND USING EXCHANGE OF LETTERS FORMULA WOULD SATISFY FRG DESIRE FOR INFORMAL AGREEMENT AND AT THE SAME TIME SERVE TO COMMIT FRG IN WRITING TO ENHANCED US/FRG DRUG CONTROL EFFORTS. END SUMMARY.

2. AS DIRECTED BY REFTEL C. EMBASSY AGAIN APPROACHED FRG
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IN ATTEMPT TO CONVINCE FRG TO ACCEPT TEXT OF PROPOSED

US/FRG NARCOTICS CONTROL AGREEMENT SET FORTH IN REFTEL

A. IN ORDER TO FURTHER CONSIDER OUR REQUEST, FRG MINISTRY OF YOUTH, FAMILY, AND HEALTH (MINISTRY RESPONSIBLE FOR COORDINATING FRG DRUG CONTROL ACTIVITIES) HELD INTERMINISTERIAL MEETING ON MARCH 21. MIN HEALTH REP LETTER OF MARCH 26 TO EMB OFF REPORTED THAT INTERMINISTERIAL COMMITTEE AGAIN FOUND IT "IMPOSSIBLE" TO ACCEPT US PROPOSAL BASED ON WASHINGTON DRAFT; TRANSLATED TEXT OF MIN HEALTH REP LETTER FOLLOWS:

3. "...AT THE (JOINT) MINISTRIES MEETING OF MARCH 21 IT WAS AGAIN DECIDED THAT IT WOULD BE IMPOSSIBLE TO CONCLUDE A GERMAN-AMERICAN WORKING PROGRAM AGAINST DRUG AND NARCOTICS ABUSE BASED ON THE DRAFT AGREEMENT SUBMITTED BY YOUR SIDE. THE GROUNDS FOR THIS DECISION ARE THAT:

- (1) A BILATERAL CUSTOMS AGREEMENT HAS BEEN CONCLUDED UNDER WHICH PARTS OF THE WORKING PROGRAM ARE JUDICIALLY COVERED AND (THEREFORE) DON'T HAVE TO BE DEALT WITH IN A FURTHER AGREEMENT;
- (2) A BILATERAL JUDICIAL ASSISTANCE AGREEMENT IS BEING PREPARED UNDER WHICH ADDITIONAL SECTIONS OF YOUR DRAFT ARE COVERED AND WHICH (THEREFORE) WOULD NOT HAVE TO BE DEALT WITH IN ANOTHER AGREEMENT;
- (3) THE SUBSTANTIVE PREREQUISITES FOR AN IMPORTANT PART OF YOUR PROPOSAL DO NOT EXIST, SINCE THE FEDERAL GOVERNMENT DOES NOT HAVE CENTRAL POLICE POWERS AND AN ORGANIZATION COMPARABLE TO THE DEA IS LACKING HERE.

I HAVE OUTLINED THESE POINTS FROM THE VIEWPOINT OF THE FEDERAL MINISTRY FOR YOUTH, FAMILY AND HEALTH; THEY COULD BE FORMALLY SUPPORTED BY THE RESPONSIBLE MINISTRIES, I.E.

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 05495

THE MINISTERS OF FINANCE (CUSTOMS), JUSTICE (JUDICIAL ASSISTANCE AGREEMENT), THE FOREIGN OFFICE (INTERNATIONAL AGREEMENTS), AND INTERIOR (POLICE)."

4. COMMENT: IT IS CLEAR THAT THE FRG DOES NOT, REPEAT, DOES NOT WANT TO ENTER INTO THE FORMAL TREATY-LIKE NARCOTICS CONTROL ARRANGEMENT SET FORTH IN REFTEL A. WE ARE CONVINCED FROM CONVERSATIONS WITH VARIOUS FRG OFFICIALS THAT THE MAIN REASON IS THE FACT THAT THE FRG SIMPLY DOES NOT HAVE THE FEDERAL POLICE POWERS ATTRIBUTED TO IT IN THE WASHINGTON DRAFT; FURTHER, THE FEDERAL GOVERNMENT DOES NOT WISH TO TRY TO CONVINCE THE CONSTITUENT STATES THAT SUCH POWERS SHOULD BE SURRENDERED TO THE FRG FOR PURPOSES OF NARCOTICS CONTROL. THE RELUCTANCE OF THE FRG TO ENTER INTO SUCH A POLITICALLY SENSITIVE DIALOGUE WITH STATE GOVERNMENTS IS UNDERSTANDABLE. OTHER PROBLEMS, NOT SPELLED OUT BY THE FRG IN ITS OFFICIAL NEGOTIATIONS WITH THE EMBASSY, BUT WHICH WE BELIEVE TO BE FACTORS IN GERMAN DECISION, ARE: (A) SEVERAL FRG AGENCIES INVOLVED IN NARCOTICS ENFORCEMENT WORK HAVE OVERLAPPING FUNCTIONS AND EACH, THEREFORE, HESITATES TO CONFIDENTIAL

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SUPPORT AN AGREEMENT WHICH MIGHT RESTRICT ITS NARCOTICS CONTROL ROLE VIS-A-VIS OTHER FRG AGENCIES; (B) FRG CUSTOMS AND THE FEDERAL CRIMINAL OFFICE FEEL THAT THE DETAILED WORKING ARRANGEMENTS ENVISAGED IN THE WASHINGTON DRAFT MIGHT RUN COUNTER TO LEGAL REQUIREMENTS ESTABLISHED UNDER EXISTING CUSTOMS COOPERATION COUNCIL AND INTERPOL AGREEMENTS. UNDER THESE CIRCUMSTANCES, EMBASSY STRONGLY RECOMMENDS THAT DEPARTMENT RECONSIDER ORIGINAL DRAFT AGREEMENT PROPOSED BY EMBASSY (BONN A-43, 1-23-74 AND BONN 03465, 3-4-74). SUCH AN AGREEMENT, ACCOMPLISHED BY AN EXCHANGE OF LETTERS BETWEEN THE AMBASSADOR AND THE APPROPRIATE FRG MINISTER, WOULD: (1) RESPOND POSITIVELY TO THE FRG SUGGESTION FOR SUCH AN AGREEMENT; (2) REGULARIZE NARCOTICS CONTROL ARRANGEMENTS

BETWEEN THE US AND THE FRG; (3) FORMALLY COMMIT THE FRG
TO WORK WITH THE US IN THE DRUG CONTROL FIELD; (4) IN-
CREASE PUBLIC AWARENESS WITHIN GERMANY OF THE JOINT US/
FRG FIGHT AGAINST DRUG ABUSE.
HILLENBRAND

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, POLICIES, DRUG CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 04 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: buchantr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BONN05495
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750117-0577
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750482/aaaacwwm.tel
Line Count: 174
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 STATE 220682, 75 OC8, 75 1974, 75 B BONN 00488
Review Action: RELEASED, APPROVED
Review Authority: buchantr
Review Comment: n/a
Review Content Flags:
Review Date: 14 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 MAY 2003 by izenbei0>; APPROVED <01 OCT 2003 by buchantr>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US/FRG NARCOTICS CONTROL AGREEMENT
TAGS: SNAR, GE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006